

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SANDRA K. KRAUSE,

Plaintiff,

vs.

NEVADA MUTUAL INSURANCE CO., *et al.*,

Defendants.

Case No. 2:12-cv-00342-JCM-CWH

ORDER

This matter is before the Court on Defendants' Emergency Motion for Protective Order (#83), filed May 28, 2013. Shortly after the motion was filed, on June 3, 2013, Plaintiff filed a notice of intent to oppose the motion. (#87). The notice further indicated Plaintiff's intent to file her opposition to the motion by June 14, 2013, consistent with the standard briefing period. Despite indicating she would do so, Plaintiff did not file an opposition by June 14, 2013, or on any date subsequent thereto. The Local Rules are clear that "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." *See* Local Rule 7-2(d). Accordingly, the Court will grant Defendants' motion for protective order (#83).

Federal Rule of 26(c)(3) states that "Rule 37(a)(5) applies to the award of expenses." Rule 37(a)(5), in turn, provides that "[i]f the motion is granted . . . the court must, after giving an opportunity to be heard" require the non-moving party to "pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A). "[T]he court must not order this payment if: (i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action; (ii) the opposing party's nondisclosure, response, or objection was substantially justified; or (iii) other circumstances make an award of

1 expenses unjust.” Defendants’ counsel will have until **Friday, December 20, 2013** to file an
2 affidavit of reasonable expenses, including attorney’s fees, incurred in making this motion. Failure
3 to file the affidavit within the time set forth herein will result in no award. Plaintiff’s counsel shall
4 have until **Friday, January 3, 2014** to file a response. The reply, if any, shall be filed **Tuesday,**
5 **January 7, 2014.**

6 Based on the foregoing and good cause appearing therefore,

7 **IT IS HEREBY ORDERED** that Defendants’ Emergency Motion for Protective Order
8 (#83) is **granted.**

9 **IT IS FURTHER ORDERED** that Defendants’ counsel will have until **Friday, December**
10 **20, 2013** to file an affidavit of reasonable expenses, including attorney’s fees, incurred in making
11 this motion. Failure to file the affidavit within the time set forth herein will result in no award.
12 Plaintiff’s counsel shall have until **Friday, January 3, 2014** to file a response. The reply, if any,
13 shall be filed **Tuesday, January 7, 2014.**

14 DATED: December 13, 2013.

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17 C.W. Hoffman, Jr.
18 United States Magistrate Judge
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